



VIOLENCE AGAINST WOMEN ACT



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What is VAWA?

- The Violence Against Women Act is a federal law that affords protections to victims of domestic violence, dating violence, sexual assault and stalking.
- 24 CFR 5.2001 et seq.

VAWA and HUD

- 2005: VAWA regulations implemented to help protect victims in public housing programs and Section 8 housing programs
- 2013: VAWA Reauthorization expands protections to victims in other federally subsidized housing programs
 - Effective on December 16, 2016.
- **Covered housing programs:**
 - Housing Choice Voucher, Section 202, Section 811, HOPWA, HOME, Homeless Programs, Section 221, Section 236 and the Housing Trust Fund.

WHO IS PROTECTED BY VAWA?

- ▣ Victims of domestic violence, sexual assault, dating violence, stalking *who are also*

- Applicants OR
- Current (authorized) program participants

**The majority of VAWA applies to rental assistance

Basic Premise

- ▣ An individual's status as a victim is not an appropriate basis for denial or termination of admission or housing assistance.



VAWA and Current Participants

Criminal activity *directly* relating to domestic violence, dating violence, sexual assault, or stalking is NOT a basis for termination. Even if it was a guest of the participant.

Incident of domestic violence is not a violation of the lease OR “good cause” to terminate tenancy or occupancy rights.

Exception for actual and imminent threat, but have to show other efforts.

Other Protections

□ Lease bifurcation

- ✂ Landlord may split a lease to evict the perpetrator of the violence and continue to house remaining family members.
- ✂ What about if remaining person is not eligible for the program? VAWA does not trump program requirements.

□ Emergency transfers – transfer to a “safe” unit

✂ When:

- The tenant asks to transfer; AND
- The tenant believes there is risk of imminent harm; OR
- The tenant or household member was victim on the premises within 90 days of the transfer request.

- Agencies must ensure that HUD's notice and certification forms are given to applicants and participants at certain times.

Confidentiality and Access

- Provider must keep confidential any information about an individual's status as a victim or documentation the victim provides
 - ✕ Can't enter information into shared database
 - ✕ Confidential record keeping

Reminders

Evaluate each situation individually!

If necessary:

- Investigate negative credit checks before denying
- Investigate criminal activity before terminating
- Quickly process transfer requests
- Provide notice of VAWA rights
- Be sensitive to victims who reveal abuse

DCA Monitoring

- ▣ We will start monitoring for the following things:
 - ▣ Does agency provide the notice and certification to applicants/participants as required?
 - ▣ Has agency adopted an emergency transfer plan?
 - ▣ ESG: Your rental assistance agreements must contain VAWA language

Additional Resources

- ▣ Atlanta Legal Aid Society, (404) 524-5811
- ▣ Georgia Legal Services Program, (404) 206-5175
- ▣ National Housing Law Project www.nhlp.org
- ▣ ACLU Women's Rights Project
www.aclu.org/fairhousingforwomen;
www.aclu.org/womensrights
- ▣ National Network to End Domestic Violence (NNEDV)
www.nnedv.org
- ▣ Office of Violence Against Women, Dept. of Justice
www.usdoj.gov/ovw
- ▣ For HUD documents see www.hudclips.org

SERVICES FOR LIMITED ENGLISH PROFICIENT (LEP) PERSONS



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What is Fair Housing?

1. Ensuring **non-discriminatory treatment** of individuals within the protected classes.
2. Providing **equal access to all programs, services and activities with federal funds.**
3. Affirmatively Furthering Fair Housing.

When do you have Housing Discrimination?

$$\begin{array}{c}
 \text{Protected Person} \\
 + \\
 \text{Covered Dwelling} \\
 + \\
 \text{Prohibited Practice} \\
 = \\
 \textbf{Housing Discrimination}
 \end{array}$$

FHA Protected Person: 7 Protected Classes

- ▣ **Race:** Black v White, Asian/Pacific Islander or American Indian/Alaskan Native
- ▣ **Color:** Light v Dark skinned persons
- ▣ **Religion:** Inclusion in a specific religious group
- ▣ **National Origin:** Hispanic
- ▣ **Sex:** Male or Female
- ▣ **Familial Status:** Presence of children under the age of 18 or pregnant women
- ▣ **Disability:** Has a physical or mental illness that substantially limits one or more major life activities;
 Has a record of such a disability OR
 Is regarded as having such a disability

FHA Prohibited Practices

Examples:

- ❑ Refusal to sell/rent after making a bona fide offer based on one or more of the protected classes, otherwise make unavailable or deny
- ❑ Discrimination in the terms, conditions or privileges of sale or rental of a dwelling
- ❑ Make, print or publish a notice or statement that indicates a discriminatory preference
- ❑ Falsely tell someone a dwelling is not for sale or rent based upon membership in one of the protected classes
- ❑ Steering people toward or away from particular neighborhoods based upon a protected class, Redlining, Reverse Redlining
- ❑ Coercion, intimidation, threats or interference with anyone asserting a Fair Housing right or assisting others who are exercising that right.

Unlawful Discrimination Example

- ❑ Application requires info on applicant's current residence. Applicant currently resides in Cambridge House. Owner knows that Cambridge House is a group home for women receiving treatment for alcoholism. Owner believes alcoholics are "likely" to cause disturbances and damage property and rejects the applicant. Owner rejects application.
- ❑ The rejection is unlawful because it is based on a generalized stereotype related to a disability rather than an individualized assessment of threats to persons or property based on objective evidence about the applicant's recent past conduct.

How Could Owner Handle Applicant?

- ❑ Owner cannot treat applicants different based on stereotypes of the applicant by requiring additional documents, imposing different lease terms, or requiring a higher security deposit.
- ❑ However, Owner can check the applicant's references to the same extent and in the same manner as other applicants. If reference check reveals objective evidence that applicant posed a direct threat to persons or property in the recent past and the direct threat has not been eliminated, Owner can reject applicant.

REASONABLE ACCOMODATIONS



What Is A Reasonable Accommodation?

- ❑ A change, exception, adaptation or modification to a policy, program, service, building or workplace that will allow an otherwise qualified person with a disability to participate fully in a program, take advantage of a service, live in a dwelling or perform a job.
- ❑ **There must be an identifiable relationship or nexus between the requested accommodation and the individual's disability.**
- ❑ Reasonable accommodations may be necessary at all stages of the housing process, including application, tenancy or to prevent eviction.

Confirming a Disability

- ❑ Housing providers can request any documentation necessary to verify that the tenant meets the legal definition of disabled for the purposes of the Fair Housing Act or Section 504, or to establish a link between the disability and the requested accommodation.

Is an Accommodation Reasonable?

- Reasonableness must be determined on a **case by case basis**:

1. Does the request impose an *undue financial and administrative burden*?
2. Would making the accommodation require a *fundamental alteration* in the essential nature of the provider/recipient's operations?

If the answer to either question is yes, the requested accommodation is considered **not reasonable**.

- An alternate, comparable accommodation that qualifies as reasonable should be offered to the requester. Interactive dialogue.

Reasonable Accommodation Examples

- Owner does not provide assigned parking spaces.

Accommodation: Tenant with a mobility impairment who has difficulty walking is given an assigned accessible parking space in front of the entrance to his unit.

- Owner requires tenants to pay rent in the rental office.

Accommodation: Tenant with a mental disability, who is afraid to leave her unit, is allowed to mail her rent payment.

- Owner has a no pets policy. **Accommodation:** Tenant who uses a wheelchair and has difficulty picking items off the ground can have an animal that fetches things for her.

National Origin as a Protected Class

- **Title VI of the Civil Rights Act of 1964:** Prohibits discrimination on the basis of race, color, or **national origin** in programs receiving federal financial assistance.
- **Executive Order (EO) 13166 (2000):** Programs receiving federal financial assistance must provide **meaningful access to Limited English Proficient (LEP) persons**
- **FHA:** Prohibits use of LEP selectively based on a protected class or as a pretext for discrimination. Also prohibits use of LEP in a way that causes an unjustified discriminatory effect.

Who are Limited English Proficient (LEP) persons?

- Persons who:
 - Do not speak English as their primary language as a result of national origin
 - Have a limited ability to speak, read, write, or understand English



- LEP obligations apply to every LEP person who meets the program requirements, regardless of citizenship status.

Best LEP Practices

DCA instructs its partner agencies that the best practice is to ensure that LEP persons have an *equal opportunity* to participate in and benefit from the program, service or activity and have the same range of choices as those offered to non-LEP individuals.

What is required of you for LEP?

- ▣ DCA's LAP. Posted online. Describes what DCA expects of subrecipients.
- ▣ We will start monitoring soon!
- ▣ New exhibit to ESG contract
- ▣ You need:
 - ▣ LEP Coordinator
 - ▣ Create your own LAP: Four Factor Analysis. Sample LAP.
 - ▣ Outreach
 - ▣ What services you will provide? Translation of vital documents, interpretation

DCA WEBINAR

□ NEW DATE: **OCTOBER 17, 2017 at 1:30 p.m.**

□ What will it cover?

LEP

- How to do your Four Factor Analysis
- What needs to be in your LAP

VAWA

- How to draft emergency transfer plan. Specifics that need to be in it.
- Program specific regulations

Any Questions?

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Approved Documentation

